

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAVID GECHT,

Plaintiff,

v.

REYNALDO GUEVARA, *et al.*,

Defendants.

Case No. 23-cv-01742

The Hon. Nancy L. Maldonado
United States District Judge

RICHARD KWIL,

Plaintiff,

v.

REYNALDO GUEVARA, *et al.*,

Defendants.

Case No. 23-cv-04279

The Hon. Nancy L. Maldonado
United States District Judge

**JOINT MOTION FOR FINDING OF RELATEDNESS, REASSIGNMENT,
AND CONSOLIDATION OF RELATED CASE FOR DISCOVERY
PURPOSES AND DISPOSITIVE MOTION PRACTICE ONLY**

Plaintiffs David Gecht and Richard Kwil, Defendant City of Chicago, Defendant Cook County, Defendant Reynaldo Guevara, the other individual Police Officer Defendants, and the ASA Defendants (hereinafter, collectively, the “Parties”), by their respective undersigned counsel, respectfully move this Court for entry of an order pursuant to Local Rule 40.4 and Federal Rule of Civil Procedure 42 for a finding of relatedness, reassignment, and consolidation of *Hernandez v. Guevara, et al.*, No. 1:23-cv-15375 (N.D. Ill.) (Shah, J.), with the above-captioned cases pending before this Court, for discovery and dispositive motion practice. In support, the Parties state:

1. On September 14, 2023, this Court granted Plaintiff Gecht’s Motion for a Finding of Relatedness and for Reassignment of *Kwil v. Guevara, et al.*, No. 23-cv-4279 (N.D. Ill) to this

Court's docket, and granted in part and denied in part Defendants' Joint Motion for Consolidation. Dkt. 109 (Minute Entry). The Court consolidated the *Gecht* and *Kwil* matters for discovery and dispositive motion practice but denied without prejudice Defendants' request to consolidate the cases for trial, holding that the Court "will make a determination as to the appropriateness of a consolidated trial at a later date." *See id.*

2. The Parties now seek a finding of relatedness, reassignment, and consolidation of *Hernandez v. Guevara, et al*, No. 23-cv-15375, pending on the docket of Judge Shah, to this Court's docket for discovery and dispositive motion practice.

3. The reasoning for the consolidation of *Gecht* and *Kwil* matters for discovery and dispositive motion practice applies with equal force to the consolidation of those cases with *Hernandez*. Richard Kwil, David Gecht, and Ruben Hernandez were investigated and charged together for the January 29, 1999 murder of Roberto Cruz. They each claim that they are innocent and that they were falsely charged and convicted as part of a pattern of misconduct by Defendant Guevara and other Chicago Police Officers. Thus, all three cases arise out of the same transaction or occurrence, involve some of the same issues of fact and law, and therefore undoubtedly meet the definition of "related cases" set forth in LR 40.4(a)(2-3). Similarly, there is also no question that the conditions for consolidation as set forth in Fed. R. Civ. Pro. 42(a) and reassignment set forth in LR 40.4(b) are satisfied, as they were for reassignment and consolidation of *Kwil* to this Court's docket. *See* Dkt. 109.

4. The Parties recognize that motions for reassignment are ordinarily not filed until after responsive pleadings have been filed in all cases, so that parties may respond as to questions of relatedness and reassignment. *See* LR 40.4. Although responsive pleadings are not yet on file in *Hernandez*, the same set of lawyers representing Defendants in the *Gecht* and *Kwil* matters will

be appearing in *Hernandez*, and the merits of this motion can be fairly addressed on behalf of all parties at this time. See *Freeman v. Bogusiewicz*, No. 03-C-2908, 2004 WL 1879045, at *1 (N.D. Ill. Aug. 11, 2004) (granting reassignment motion brought before answers were filed, holding that Local Rule does not explicitly require motion to be brought only after answers or other pleadings).

5. Counsel have conferred with Dan Stohr, who represents Mr. Hernandez in the *Hernandez* case, and have been advised that Mr. Stohr has no objection to this motion and concurs that reassignment and consolidation for discovery and dispositive motion practice is appropriate here and should be ordered so that all three cases can progress together through discovery with appropriate expedition.

WHEREFORE, the Parties respectfully request that this Court enter an order pursuant to Local Rule 40.4 and Fed. R. Civil Pro. 42 finding that the above-captioned cases are related to *Hernandez v. Guevara*, 23-cv-15375, reassigning the *Hernandez* case to this court's docket, and consolidating the cases for discovery and dispositive motion practice.

Respectfully submitted,

/s/ Locke E. Bowman
Counsel for Plaintiff

Jon Loevy
Anand Swaminathan
Steven Art
Locke E. Bowman
Sean Starr
Annie Prossnitz
Meg Gould
LOEVY & LOEVY
311 N. Aberdeen
Chicago, Illinois 60607
(312) 243-5900
prossnitz@loevy.com

/s/ Josh M. Engquist
Special Assistant Corporation Counsel
*Counsel for Pergande, Muzupappa,
Rutherford, and Dickinson*

James G. Sotos
Josh M. Engquist
Jeffrey R. Kivetz
Allison L. Romelfanger
Elizabeth R. Fleming
Kyle T. Christie
Mark F. Smolens
Special Assistant Corporation Counsel
THE SOTOS LAW FIRM, P.C.
141 W. Jackson Blvd., Suite 1240A
Chicago, IL 60604
Tel: (630) 735-3300
jengquist@jsotoslaw.com

/s/ Eileen E. Rosen
Counsel for the City of Chicago

Eileen E. Rosen
Catherine M. Barber
Theresa B. Carney
Austin G. Rahe
Lauren Ferrise
Jessica Zehner
Andrew J. Grill
Special Assistant Corporation Counsel
Rock Fusco & Connelly, LLC
333 W. Wacker, 19th Floor
Chicago, Illinois 60606
(312) 494-1000
erosen@rfclaw.com

/s/ Kelli Huntsman
Counsel for Defendant Cook County

Kelli Huntsman
Cook County State's Attorney's Office –
Civil Actions Bureau
500 Richard J. Daley Center
Chicago, IL 60602
(312) 603-7379
Kelli.huntsman@cookcountysao.org

/s/ Michael J. Czopkiewicz
*Counsel for Defendants Brendan McGuire
and Michael Hood*

Michael Czopkiewicz
Sean Joseph O'Callaghan
O'Mara & O'Callaghan
230 W. Monroe Street
Suite 2620
Chicago, IL 60606
(312) 600-5588
Michael.C@o2lawyers.com

/s/ Misha Itchhaporia
Counsel for Defendant Guevara

Steve B. Borkan
Timothy P. Scahill
Misha Itchhaporia
Whitney Hutchinson
Molly Boekeloo
Borkan & Scahill Ltd.,
20 S. Clark St. Suite 1700
Chicago, IL 60603
(312) 580-1030
mitchhaporia@borkanscahill.com

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that he caused a copy of the foregoing document to be served upon all counsel of record by the filing the same using the Court's CM/ECF system, which automatically caused copies to be delivered to all counsel of record and that he also served a copy upon Daniel Stohr, counsel for Ruben Hernandez, by emailing the same to him, all on December 15, 2023.

/s/ Locke E. Bowman